

EXHIBIT D



Deposition of:
William Merklin

December 13, 2019

In the Matter of:
**Town of Hempstead v. United States of
America et al.**

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2 UNITED STATES DISTRICT COURT
3 EASTERN DISTRICT OF NEW YORK
4 Index No. 2:16-cv-03652-ENV-ST

5 -----x
6 TOWN OF HEMPSTEAD,

7 Plaintiff,

8

9 -against-

10

11 UNITED STATES OF AMERICA, DEPARTMENT
12 OF THE NAVY, NORTHROP GRUMMAN
13 CORPORATION, NORTHROP GRUMMAN SYSTEMS
14 CORPORATION, COVESTRO LLC, BAYER
15 CORPORATION, OCCIDENTAL CHEMICAL
16 CORPORATION, THE KASPER (1977)
17 IRREVOCABLE TRUST FOR THE BENEFIT OF
18 CHARLES B. KASPER AND RICHARD J.
19 KASPER; SANDERINA R. KASPER, as Trustee
20 of the Kasper (1977) Irrevocable Trusts
21 for the Benefit of Charles B. Kasper
22 and Richard J. Kasper; MARTIN STALLER,
23 PARVIZ NEZAMI, JEROME COGAN, LAWRENCE
24 COHEN and AMERICAN DRIVE-IN CLEANERS OF
25 BETHPAGE, INC.,

16

17 Defendants.

18

19 -----x
20
21 December 13, 2019
22 10:15 a.m.

23

24

25

DEPOSITION of WILLIAM D. MERKLIN, P.E.

W. D. Merklin, P.E.

small assignments for the Commissioner, but usually a project of this size would be based on a specific proposal.

Q Looking at the last sentence of paragraph 2 on the first page of Exhibit 3, your expert report, it says "Since PTAS is a common treatment process for the removal of the detected contaminants, it was determined to be the best choice for implementation in this case;" correct?

A Yes.

Q And who made that determination?

A D & B .

Q Was there a specific document that set forth an analysis in determining the best choice for implementation?

MR. FISHER: Objection. You can answer.

A The basis of design reports.

Q At the time -- well, strike
that.

W. D. Merklin, P.E.

list or a federal list?

A There is a state list and there's also the health department monitoring requirements list that I talked about earlier, which is the list that we generally use.

Q And when you say again health department, that's the Nassau County Health Department; correct?

Nassau County, yes.

Q Then the last sentence of that paragraph talks about removal of a well from service when the concentrations is 80 percent or higher than the MCL.

Is that also based on the industry -- unwritten industry standard that you mentioned?

A That's based on the Nassau County monitoring requirements annual letter where they recommend that a well is removed at 80 percent.

Q And it's not based on the
sanitary code; correct?

A It's not on the State

W. D. Merklin, P.E.

removal prior to commencing with this project and that means they didn't require any treatment for VOCs; correct?

A VOCs or anything else.

Q Now, in the third paragraph in that section it talks about the three wells in increasing concentrations of 1,1 Dichloroethane or 1,1 DCA, Freon 113 and PCE observed in the wells, but those were not each observed in each of the wells; correct?

A That's right.

Q And they did not all have increasing trends over that period; did they?

A I don't know.

Q And they -- for example, 1,1
DCA, you can look at the numbers, I think
it was basically between half a part per
billion and 2 part per billion. Do you
consider that approaching the maximum
contaminant level of 5?

A No.

0 In the next paragraph for

1 W.D. Merklin, P.E.

2 A I don't know why.

3 Q Well, let's go with your
4 Exhibit 5 then. So there's a table that
5 has sampling results from the relative
6 wells on page 1; correct?

7 A Yes.

8 Q Do you know where those
9 results came from?

10 A They would have been
11 provided by the Town.

12 Q And it indicates that Freon
13 113 was found in well 13, but not in 7A
14 or 8A; correct?

15 A Yes.

16 Q And it doesn't indicate that
17 Trichloroethylene was found in any of the
18 wells; does it?

19 A It does not.

20 Q And, in fact, of the four
21 substances, only Freon 113 was found in
22 well 13 and the other three were only
23 found at well 7A and 8A; correct?

24 A That's correct.

25 | O Did you reach any conclusion

W. D. Merklin, P.E.

A I think it says specifically originating from the Northrop Grumman Systems Corporation site in Bethpage and then there's an ID number.

Q Do you know if that includes
the Navy NWIRP property?

A I don't know.

Q Do you know if the Hooker
RUCO property adjacent to the NWIRP
property contributes to the OU-2 plume?

A I don't know.

Q You're not giving testimony as to the specific source of contaminants at the Levittown Water District wells as to whether they come from the Northrup Grumman property and/or the Navy, adjoining Navy property and/or any other property; correct?

A No. I 'm only -- I 'm only I
guess stating that we looked at certain
data and used it to make a decision for
the decision criteria.

Q You indicate on paragraph 3 that the Grumman site was known to exist